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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,966	09/15/2003	Marioara Mendelovici	1662/579021	1081
26646	7590	11/15/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			ANDERSON, REBECCA L	
			ART UNIT	PAPER NUMBER
			1626	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/662,966

**Applicant(s)**

MENDELOVICI ET AL.

**Examiner**

Rebecca L. Anderson

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 28-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 28-31 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)          |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. <u>110905</u> .                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____.  | 6) <input type="checkbox"/> Other: _____.                                   |

### **DETAILED ACTION**

Claims 28-31 are currently pending in the instant application. The previous restriction requirement is withdrawn in view of the following new restriction requirement.

#### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 28 and 29 drawn to benzisoxazole methane sulfonic acid in acid form classified in class 548 subclass 241.
- II. Claims 29-31 drawn to the sodium salt forms of benzisoxazole methane sulfonic acid, classified in class 548 subclass 241.
- III. Claims 29-31 drawn to the barium salt forms of benzisoxazole methane sulfonic acid, classified in class 548 subclass 241.
- IV. Claims 29-31 drawn to the calcium salt forms of benzisoxazole methane sulfonic acid, classified in class 548 subclass 241.
- V. Claims 29-31 drawn to the potassium salt forms of benzisoxazole methane sulfonic acid, classified in class 548 subclass 241.
- VI. Claims 29-31 drawn to the magnesium salt forms of benzisoxazole methane sulfonic acid, classified in class 548 subclass 241.
- VII. Claims 29-31 drawn to the lithium salt forms of benzisoxazole methane sulfonic acid, classified in class 548 subclass 241.
- VIII. Claims 29-31 drawn to the manganese salt forms of benzisoxazole methane sulfonic acid, classified in class 548 subclass 241.

- IX. Claims 29-31 drawn to the cobalt salt forms of benzisoxazole methane sulfonic acid, classified in class 548 subclass 241.
- X. Claims 29-31 drawn to the iron salt forms of benzisoxazole methane sulfonic acid, classified in class 548 subclass 241.
- XI. Claims 29-31 drawn to the copper salt forms of benzisoxazole methane sulfonic acid, classified in class 548 subclass 241.
- XII. Claims 29-31 drawn to the nickel salt forms of benzisoxazole methane sulfonic acid, classified in class 548 subclass 241.
- XIII. Claims 29-31 drawn to the zinc salt forms of benzisoxazole methane sulfonic acid, classified in class 548 subclass 241.
- XIV. Claims 29-31 drawn to the silver salt forms of benzisoxazole methane sulfonic acid, classified in class 548 subclass 241.
- XV. Claims 29-31 drawn to the salt forms of benzisoxazole methane sulfonic acid not found in groups I-XIV, classified in class 548 subclass 241.

Inventions I-XV are all independent and distinct products which differ materially in structure and element. For example, Invention I is benzisoxazole methane sulfonic acid while Invention XIV, which differs in structure and element is a silver salt of benzisoxazole methane sulfonic acid. The material difference in structure and element can also be seen by the various x-ray diffraction patterns of the products of inventions I-XV which differ between crystalline forms.

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Because these inventions are distinct for the reasons given above and the search required for one Group is not required for the other Groups, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

### **Conclusion**

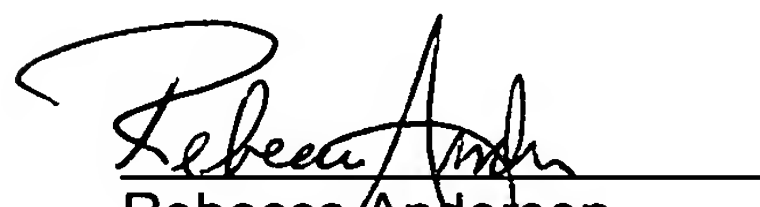
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rebecca L. Anderson whose telephone number is (571) 272-0696. Mrs. Anderson can normally be reached Monday through Friday 5:30AM to 2:00PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Joseph K. McKane, can be reached at (571) 272-0699.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Rebecca Anderson  
Patent Examiner  
Art Unit 1626, Group 1620  
Technology Center 1600

November 9, 2005